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#### Remarks

Claim 1 has been rejected under 35 U.S.C. §102 as being anticipated by Codilian, USPN 7,095,577, and all previously pending claims (1-24) have been rejected under 35 U.S.C. §103 as being unpatentable over Simozato, USPN 6,064,534 in view of Codilian.

Claim 1 has been amended to recite that the kick amplitude or write current establishes an overwrite signal-to-noise ratio to be within a predetermined desired range as taught in the present specification on the bottom of page 5 to the top of page 6 (listing example predetermined ranges). The limitation of now-canceled Claim 9 has been moved into independent Claim 7, the limitation of now-canceled Claims 14 and 15 has been moved into independent Claim 12, and the limitation of now-canceled Claim 24 has been moved into independent Claim 16.

#### Anticipation Rejection

The rejection alleges that Codilian, col. 4, lines 28-31 states that data can be manipulated for each disk portion, but beyond that and a citation to various other parts of the reference (namely, "summary of invention", col. 3, lines 21-35, col. 4, lines 31-34 "and claims") no other element of Claim 1 is mentioned in the rejection, see Office Action, bottom of page 2.

Claim 1 requires establishing an overwrite signal-to-noise ratio to be within a predetermined desired range. That isn't how Codilian works. As the relied-upon portions of Codilian make clear, write current is established by "metrics". What are those "metrics"? The answer is easy and straightforward, since Codilian discloses it. The only two metrics Codilian uses to establish write current are (1) a difference between an

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equalized read signal sample and an expected value (col. 5, lines 40-50, not cited in the rejection) and (2) bit errors between the test data as read and an expected data sequence (col. 5, line 60 - col. 6, line 5, also not cited in the Office Action). *Nowhere does Codilian teach or suggest that its "metric" is a signal to noise ratio*, much less the one claimed.

In fact, Codilian nowhere mentions the words "ratio" or "noise". No evidence exists in the record that there is any recognized correlation at all between SNR and Codilian's two metrics. Applicant need not and will not hypothesize about unshown correlations beyond merely observing that Codilian nowhere mentions using SNR of any sort as one of its metrics. The rejection is overcome.

#### Obviousness Rejections

##### **Claim 1**

As explained by Applicant in the appeal brief filed June 16, 2008 and incorporated by reference herein, none of the portions of Simozato cited in the Office Action, page 3, teach anything more than a conventional hard disk drive that does not touch on particular ways to establish write current. The examiner seems now to recognize as much, admitting in the last paragraph of page 3 that "Simozato does not specifically state that write current may be established for each individual disk portion", relying on Codilian for the shortfall. However, as explained above even if Codilian were to be combined with Simozato, Claim 1 would not result because no reference discusses establishing write current using SNR, much less the one claimed.

##### **Claims 7 and 12**

In addition to the above comments, Claims 7 and 12 require establishing both kick amplitude and write current in particular ways. The examiner can't find this limitation in the references so instead embarks on the

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legally illegitimate method of making a bare allegation, unsupported by evidence, that "manipulating write current and kick amplitude is known to be routine in the art", page 4 of the Office Action, lines 2 and 3.

This is clear error for two reasons. First, mere conclusions unsupported by evidence cannot establish obviousness, KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727 (2007). Neither reference even mentions "kick amplitude". The rejections merit reversal on this ground alone.

Second, the claims do not recite "kick amplitude" in a vacuum, untethered from other elements, and what is supposed to be examined is the *claimed combination* of elements. Not only do the references fail to so much as mention "kick amplitude", they fail to tie it to establishing an overwrite signal-to-noise ratio within a desired range (Claim 7).

The allegation on page 4, lines 3 and 4 of the Office Action that Codilian teaches that it is desired to optimize "such ratio" is wrong. A reference can't teach optimizing a ratio when it never even mentions the word "ratio".

#### Claim 16

The limitation of former Claim 24 (write current and/or kick amplitudes being varied using an equation having a slope value, with the slope value being a first value when temperature is above a threshold and a second value when temperature is below the threshold) which now appears in Claim 16 is not mentioned in the rejection and does not appear to be present in the references, rendering Claim 16 patentable.

#### Dependent Claims

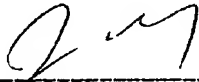
*Not a single dependent claim limitation has been discussed* in the rejections. This means that by operation of law, the claims are now patentable (35 U.S.C. §102: "a person *shall be entitled to a patent* unless" a case of anticipation or obviousness is made).

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For the Applicant



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John L. Rogitz  
Registration No. 33,549  
Attorney of Record  
750 B Street, Suite 3120  
San Diego, CA 92101  
Telephone: (619) 338-8075  
JLR:jg

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